

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Appellant(s):	Oksanen et al.	Art Unit:	2173
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Title:	SPEED BROWSING OF MEDIA ITEMS IN A MEDIA DIARY APPLICATION		

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SECOND SUPPLEMENTAL AMENDED APPEAL BRIEF UNDER 37 CFR § 41.37

This second supplemental Appeal Brief is filed pursuant to the "Notice of Appeal to the Board of Patent Appeals and Interferences" and the "Pre-Appeal Brief Requested for Review" filed February 6, 2009, from the "Notice of Panel Decision from Pre-Appeal Brief Review" mailed March 11, 2009, in response to the Notification of Non-Compliant Appeal Brief mailed September 2, 2009; and in response to the telephone request received September 30, 2009, to provide Section 5 with page and line citations from the application as originally filed, rather than paragraph and line citations from the application as published.

1. ***Real Party in Interest***

The real party in interest in this appeal is Nokia Corporation, the assignee of the above-referenced patent application.

2. ***Related Appeals and Interferences***

There are no related appeals and/or interferences involving this application or its subject matter.

3. ***Status of Claims***

The present application includes pending Claims 1, 3-5, 7-25, 27, and 29-47, all of which stand rejected and which were last amended by Appellant in a response filed August 6, 2008. All of pending Claims 1, 3-5, 7-25, 27, and 29-47 are hereby being appealed. Claims 2, 6, 26, and 28 are cancelled.

4. ***Status of Amendments***

There are no un-entered amendments in this application, and no amendments have been submitted subsequent to the final Office Action of November 6, 2008.

5. *Summary of Claimed Subject Matter*

Claimed embodiments of the present invention relate to new scroll functions for browse speed when browsing media items over multiple periods of time using manual controls that are altered by automated controls, which is a special case of the “manual mode” disclose in the application. The present invention is referred to, generally, with reference to “speed browsing” functionality, but relates to particular methods, apparatus, and computer program products for controlling the scroll function for speed browsing.

As shown and described in the application, for example, in Figs. 1 and 4 and page 4, line 11-page 5, line 2; page 9, lines 11-18; and page 14, line 21-page 20, line 7 (paragraphs 0012, 0030, and 0049-0065), the present invention involves the combined presentation and use of several elements, including a media view **200**, a timeline view **300**, a scrolling time bar **310**, a media handle **320**, and a centerline position **410** of the scrolling time bar **310**. The media items that are browsed are displayed in the media view **200**. Because visual representations **220** of the media items that are displayed will generally be too large to simultaneously fit within the media view **200**, speed browsing functionalities of the present invention may be used. For example, a timeline view **300** is generated to provide the ability to browse media files in the media view **200**. The timeline view **300** includes a scrolling time bar **310** and a media handle **320**. The scrolling time bar **310** includes time units **330** that are currently displayed in the media view **200**. See, e.g., page 15, lines 6-24 (paragraphs 0051-0052). The speed at which media items are browsed in the media view **200** is generally manually-controlled and determined by the relative deviated position of the media handle **320** from the centerline position **410** of the scrolling time bar **310**. See, e.g., page 16, line 8-page 17, line 17 (paragraphs 0055-0057). In addition, the present invention may be used in combination with a chosen browse parameter, such as a search or filter, for specific media items that are browsed in the media view **200** to identify those media items that match the chosen browse parameter. See, e.g., page 17, lines 18-24 and page 22, line 9-page 23, line 7 (paragraphs 0058 and 0072-0073). Accordingly, in addition to manually-controlling the speed of browsing using a media handle **320** and the scrolling time bar **310** of the timeline view **300**, the present invention automatically adjusts the manually-controlled speed of browsing. See, e.g., page 17, lines 18-24 and page 22, line 9-page 23, line 7 (paragraphs 0058

and 0072-0073). For example, the present invention provides an ability to automatically decrease the manually-controlled speed of the browsing when a media file having a chosen browse parameter approaches or is in the media view **200**, even though the user does not adjust the media handle, *see, e.g.*, page 22, line 26-page 23, line 7 (paragraph 0073) and even before the media file is visible in the media view, *see, e.g.*, page 22, lines 9-25 (paragraph 0072). As such, a user may manually-control the speed of browsing for media items in the media view **200** by deviating the media handle **320** from a centerline position **410** of the scrolling time bar **310**, but when a media file matching a chosen browse parameter approaches or is in the media view **200**, the browse speed may be automatically decreased to provide an ergonomic benefit to the user, such as to allow the user to more easily adapt to and be alerted to a slower browse speed of media files in the media view as a media file matching a chosen browse parameter approaches the media view **200** and to provide the user more time to determine if a media file is a specific one which the user wishes to access when a media file matching a chosen browse parameter is in the media view **200**. *See, e.g.*, Abstract; page 17, lines 18-24 and page 22, line 9-page 23, line 7 (paragraphs 0058 and 0072-0073).

Independent claim 1 recites a computer program product comprising a computer-useable medium having computer-readable instructions embodied thereon for providing access to digital media files on a digital device, *see*, page 21, lines 13-15 (paragraph 0070, lines 1-5). The computer-readable instructions include first and second instructions, *see*, page 4, lines 13-15 (paragraph 0012, lines 4-8). The first instructions are adapted to generate a media view (*see*, element **200** of FIGS. 1-3 and 5) that provides access to the digital media files, *see*, page 4, lines 14-15 (paragraph 0012, lines 6-8). The second instructions are adapted to generate a timeline view (*see*, element **300** of FIGS. 1 and 5) comprising a scrolling time bar (*see*, element **310** of FIGS. 1 and 4) and a media handle (*see*, element **320** of FIGS. 1, 4 and 5) that provides the ability to browse media files in the media view generated by the computer program product by using the media handle, *see*, page 4, lines 16-17 (paragraph 0012, lines 8-10). The second instructions are further adapted to provide the ability to browse for media files matching a chosen browse parameter, *see*, page 4, lines 22-24 (paragraph 0012, lines 18-21) and according to a manually-controlled speed of the browsing determined by the relative deviated position of

the media handle from a centerline position of the scrolling time bar for the media handle, *see*, page 22, lines 13-18 (paragraph 0072, lines 8-14). The second instructions are further adapted to automatically decrease the manually-controlled speed of the browsing by computer program instruction control when a media file having the chosen browse parameter approaches or is in the media view, *see*, page 22, line 31-page 23, line 3 (paragraph 0073, lines 9-13).

Independent Claim 22 recites an apparatus comprising a processing unit (*see*, element 510 of FIG. 6), an input device, and a display (*see*, element 550 of FIG. 6). The processing unit executes computer-readable program instructions 520, 530, 540 adapted to access media files, *see*, page 5, lines 3-4 (paragraph 0013, lines 1-3). The computer-readable instructions include first and second instructions, *see*, page 5, lines 5-9 (paragraph 0013, lines 4-8). The first instructions are adapted to generate a media view (*see*, element 200 of FIGS. 1-3 and 5) that provides access to the digital media files, *see*, page 5, lines 6-9 (paragraph 0013, lines 6-8). The second instructions are adapted to generate a timeline view (*see*, element 300 of FIGS. 1 and 5) comprising a scrolling time bar (*see*, element 310 of FIGS. 1 and 4) and a media handle (*see*, element 320 of FIGS. 1, 4 and 5) that provides the ability to browse media files in the media view generated by the computer program product by using the media handle, *see*, page 5, lines 7-9 (paragraph 0013, lines 8-10). The second instructions are further adapted to provide the ability to browse for media files matching a chosen browse parameter, *see*, page 4, lines 22-24 (paragraph 0012, lines 18-21) and according to a manually-controlled speed of the browsing determined by the relative deviated position of the media handle from a centerline position of the scrolling time bar for the media handle, *see*, page 22, lines 13-18 (paragraph 0072, lines 8-14). The second instructions are further adapted to automatically decrease the manually-controlled speed of the browsing by computer program instruction control when a media file having the chosen browse parameter approaches or is in the media view, *see*, page 22, line 31-page 23 line 3 (paragraph 0073, lines 9-13). The input device is used to manually control the deviation of a media handle of a timeline view, each generated in accordance with the computer-readable program instructions executed by the processing unit, *see*, page 17, lines 3-17 and page 19, line 29-page 20, line 7 (paragraph 0057 and 0065). And the display presents a combined view of the media view and the media handle, *see*, page 14, lines 1-7 (paragraph 0047).

Independent Claim 24 recites a method for browsing media files in a media application according to functions similar to those which the computer-readable instructions of independent Claim 1 are adapted to perform, as described above. In this regard, independent Claim 24 provides that the method includes providing a media view and a timeline view comprising a scrolling time bar and a media handle on a display associated with a device implementing the media application, *see*, page 5, lines 15-16 (paragraph 0014, lines 2-5). The media handle is adapted to provide manually-controlled browsing of media files in the media view, *see*, page 5, lines 7-9 (paragraph 0013, lines 8-10). The method further includes defining a browse parameter (*see*, element **600** of FIG. 7) for desired media files, *see*, page 5, lines 22-24 (paragraph 0014, lines 14-16) and deviating the media handle (*see*, element **610** of FIG. 7) a distance from a centerline position of the scrolling time bar for the media handle, *see*, page 5, line 17 (paragraph 0014, lines 5-6). The method may further include browsing media files at a speed corresponding to the distance that the media handle is deviated from the centerline position, thereby defining a manually-controlled browse speed, *see*, page 5, lines 18-20 (paragraph 0014, lines 12-13 and element **630** of FIG. 7) and automatically decreasing the manually-controlled browse speed of the media handle when a desired media file approaches or is within the media view, *see*, page 5, lines 26-28 and page 17, lines 18-24 (paragraph 0014, lines 19-23, paragraph 0058 and element **670** of FIG. 7).

Independent Claim 42 recites an apparatus comprising a processing unit **510** specifically programmed to be configured to access media files, *see*, page 5, lines 3-4 (paragraph 0013, lines 1-3). The processing unit is further configured to generate a media view (*see*, element **200** of FIGS. 1-3 and 5) that provides access to the digital media files, *see*, page 5, lines 5-6 and page 21, lines 17-18 (paragraph 0013, lines 6-8 and paragraph 70, lines 7-9) and associates the digital media files with a period of time, *see*, page 21, lines 18-19 (paragraph 0070, lines 7-10). The processing unit is further configured to generate a scrolling view media handle (*see*, element **320** of FIGS. 1, 4 and 5) that provides the ability to browse media files in the media view over several periods of time by control of the media handle, *see*, page 5, lines 7-9 (paragraph 0013, lines 8-10). The processing unit is further configured to provide the ability to browse for media files matching a chosen browse parameter, *see*, page 4, lines 22-24 (paragraph 0012, lines 18-21).

and according to a manually-controlled speed of the browsing determined by the relative deviated position of the media handle from a centerline position of the scrolling time bar for the media handle, *see*, page 22, lines 13-18 (paragraph 0072, lines 8-14). The processing unit is further configured to automatically decrease the manually-controlled speed of the browsing by computer program instruction control when the application determines that a media file having the chosen browse parameter approaches or is in the media view, *see*, page 22, line 31-page 23, line 3 (paragraph 0073, lines 9-13).

6. ***Grounds of Withdrawal/Rejection to be reviewed on Appeal***

The following grounds of rejection are appealed:

A. Claims 1, 3-5, 7-15, 17-25, 27, 29, 30, 31, 32-34, 35, 36, 37-39, 40, 41, 42-45, and 47 are rejected as unpatentable over U.S. Patent Application Publication No. 2003/0033296 to Rothmuller et al. ("the Rothmuller publication") in view of U.S. Patent 6,496,842 to Lyness ("the Lyness patent") and U.S. Patent 6,337,697 to Becker et al. ("the Becker patent").

B. Claims 16 and 46 are rejected as unpatentable over the Rothmuller publication in view of the Lyness patent and the Becker patent and further in view of U.S. Patent 5,615,347 to Davis et al. ("the Davis patent").

7. Arguments

A. The Combination of the Rothmuller publication, Lyness patent, and Becker patent Does Not Teach or Suggest a Scrolling Time Bar

All of independent Claims 1, 22, 24, and 42 are rejected under 35 U.S.C. § 103(a) based upon the combination of the Rothmuller publication in view of the Lyness patent and the Becker patent. See Final Office Action, pp. 3-5 and 11-13.

With respect to the claim limitation “a scrolling time bar,” the Final Office Action states “Rothmuller teaches second instructions adapted to generate a timeline view comprising a scrolling time bar... by disclosing a timeline [figure 3, ‘250’] having time bands that allow a user to navigate between certain periods of time such that photos are viewed based on the user’s position within the timeline [paragraph 29; figures 1, 3].” The Advisory Action states:

“the term ‘scrolling time bar’ may be broadly interpreted and, without further elaboration, it does not necessarily require that the time bar may be scrolled to indicate periods of time beyond that which is shown in the extent of the timeline” (p. 2)

and

“Rothmuller discloses [Rothmuller, figure 3] which show left and right arrows and an icon between the arrows that appear to indicate the current position within the timeline.... Rothmuller discloses and one of ordinary skill in the art would have understood the Rothmuller publication to teach and to suggest that at least the left and right arrow are used to position the icon beneath the timeline to indicate the current position within the timeline. Thus, the bar that contains the icon may be considered as a scrolling time bar since it is used to scroll through different periods of the timeline. One may also interpret the adjustable bands 251 within the timeline to read on a scrolling time bar. These bands indicate the period of the photos displayed in the image area [Rothmuller, paragraphs 28-29]. Additionally, the combination of Rothmuller and Lyness would provide a scrolling time bar that indicates time beyond that which is shown in the extent of the timeline.” (p. 2-3)

For convenience of comparison, included below is a copy of Figure 3 of the Rothmuller publication, showing timeline 250.

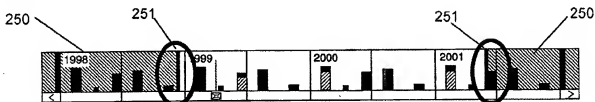


Fig. 3

Applicant respectfully submits that the asserted disclosure of the Rothmuller publication, taken alone or in combination with the disclosure of the Lyness patent and the Becker patent, fails to teach or suggest “a *scrolling* time bar.”

Nothing in the Rothmuller publication, alone or in combination with either of the other cited references, teaches or suggests that the timeline is capable of scrolling, such as to display periods of time beyond that which is shown in the extent of the visible portion of the timeline. The Rothmuller publication teaches away from “a *scrolling* time bar.” It is submitted that one of ordinary skill in the art would have understood the Rothmuller publication to only teach and suggest that timeline 250 is a static (fixed) presentation of the extent of the periods of time over which photos are stored and may be viewed, as is typical of displays used with conventional “slider” bars like the icon of the Rothmuller publication.

And Applicant refutes the statement in the Advisory Action that “the term ‘scrolling time bar’ may be broadly interpreted and, without further elaboration, it does not necessarily require that the time bar may be scrolled to indicate periods of time beyond that which is shown in the extent of the timeline.” The present application describes that when the media handle 320 is deviated beyond a predefined “short” distance of the time units 330 visible in the media view 200, “the time bar will scroll” simultaneous with the scrolling of the underlying media view or calendar view” (see paragraph 0061, emphasis added). Further, if the media view or calendar view scrolls, and the centerline position 410 of the scrolling timeline bar 310 corresponds to the center of the time unit 330 of the media view 200, it is submitted that the scrolling timeline bar 310 inherently must also scroll. *Accord* paragraphs 0051-0052 and 0059-0061. Accordingly, Applicant submits that the broadest *reasonable* interpretation of the term “scrolling time bar,” *consistent with the specification*, requires that the time bar scroll, contrary to the rejection of the Final Office Action and the express assertion of the Advisory Action. See, e.g., *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004); *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (*en banc*).

Applicant notes that this distinction reveals an inherent difference between the function of the timeline of the Rothmuller publication and the present invention. Because the time bar of the present invention is a *scrolling time bar*, the media handle functions to scroll the time bar and

to navigate the time bar to a time to which the timeline view is scrolled to browse media files at the associated time in the media view. By comparison, the arrows of the timeline of the Rothmuller publication, taken alone or in combination with the disclosure of the Lyness patent and the Becker patent, suggest that the arrows are used only to position the cursor icon beneath the timeline to indicate the current position within the timeline to display photos, but the arrows are not used to scroll the time bar, only the cursor icon.

Further, Applicant submits that the statement in the Advisory Action that “One may also interpret the adjustable bands 251 within the timeline to read on a scrolling time bar” is inconsistent with a reasonable interpretation of a scrolling time bar consistent with the specification of the present application. The presence of adjustable bands 251 on a timeline does not change the fact that the timeline does not scroll. Applicant submits that it is *not* reasonable to characterize the fixed timeline with adjustable bands as a *scrolling* time bar. Moreover, Applicant submits that this rationale presents a new ground of rejection not expressed in the rejections of the Final Office Action.

Further, Applicant submits that the statement in the Advisory Action that “the combination of Rothmuller and Lyness would provide a scrolling time bar that indicates time beyond that which is shown in the extent of the timeline” is not supported in fact by the Final Office Action, Advisory Action, or the cited references. The Advisory Action refers to related discussion of a media handle at a centerline position of the scrolling time bar. The Advisory Action states “the information it is navigating would scroll to reflect the currently navigated item.” However, the Advisory Action provides no explanation how this statement is supported or why disclosure of a return-to-center control tool of the Lyness patent would expressly or inherently teach or suggest, either alone or in combination with the Rothmuller publication and the Becker patent, that a return-to-center control tool of the Lyness patent would be associated with a time bar and that the time bar would scroll. Moreover, Applicant submits that this rationale presents a new ground of rejection not expressed in the rejections of the Final Office Action.

Accordingly, Applicant submits that the Rothmuller publication, taken alone or in combination with the disclosure of the Lyness patent and the Becker patent, fails to teach or

suggest “a *scrolling time bar*.” Applicant submits that the Office’s interpretation of the claim term “scrolling time bar” and application of the cited references in the pending rejections of Claims 1, 3-5, 7-25, 27, and 29-47 is a reversible error.

B. The Combination of the Rothmuller publication, Lyness patent, and Becker patent Does Not Teach or Suggest (i) a Centerline Position of a Scrolling Time Bar of a Timeline View or (ii) a Relative Deviated Position of a Media Handle from a Centerline Position of a Scrolling Time Bar

All of independent Claims 1, 22, 24, and 42 are rejected under 35 U.S.C. § 103(a) based upon the combination of the Rothmuller publication in view of the Lyness patent and the Becker patent. *See* Final Office Action, pp. 3-5 and 11-13.

With respect to the claim limitation “a centerline position” of the scrolling time bar, the Final Office Action states “Lyness discloses displaying a return-to-center user interface control tool [column 3, lines 1-7, 10-22] for navigating a set of information [column 15, line 39 to column 16, line 51]” and “As shown in [figure 16], the control tool is centered below the information it is navigating.”

Applicant respectfully submits that the asserted disclosure of the Lyness patent, taken alone or in combination with the disclosure of the Rothmuller publication and the Becker patent, fails to teach or suggest a centerline position of the scrolling time bar. Applicant submits that the characteristic of a return-to-center user interface control tool has no relation to and does not suggest a centerline position of a scrolling time bar. The fact that a return-to-center control tool, as implicit in its name, returns to the center of the control tool (i.e., a central rest position 924) when released does not teach or suggest a centerline position of a scrolling time bar. Whether or not a control tool returns to *its* center is not related to and does not suggest that an associated time bar is a scrolling time bar that scrolls to a centerline position. The recited centerline position in the claims is “*of the scrolling time bar*,” not *of the media handle*. Further, the fact that a control tool may be centered below the information it is navigating does not teach or suggest a centerline position of the scrolling time bar. Whether or not a control tool is centered below the information it is navigating does not teach or suggest that an associated time bar is a scrolling time bar that scrolls to a centerline position.

Applicant also submits that the asserted disclosure of the Lyness patent, taken alone or in combination with the disclosure of the Rothmuller publication and the Becker patent, fails to teach or suggest a relative deviated position of a media handle from a centerline position of a scrolling time bar. Applicant submits that the deflected position of a return-to-center user interface control tool has no relation to and does not suggest a relative deviated position of a media handle from a centerline position of a scrolling time bar. The fact that a return-to-center control tool may be deviated from the center of the control tool (i.e., from a central rest position 924) does not teach or suggest that the deviated position of the control tool is related in any way to a centerline position of a scrolling time bar, but, instead, only discloses a relative deviated position of the control tool from a central rest position 924 of the control tool. The claims recite that the relative deviation is “from a centerline position of the scrolling time bar,” not of a return-to-center control tool. Further, the fact that a control tool may be centered below the information it is navigating does not teach or suggest a relative deviated position of a media handle from a centerline position of a scrolling time bar. Whether or not a control tool is centered below the information it is navigating does not teach or suggest that the deviated position of the control tool is related to a centerline position of a scrolling time bar and a relative deviation of the control tool from a centerline position of a scrolling time bar, but, instead, only discloses a relative deviated position of the control tool from a central rest position 924 of the control tool. The disclosure of the Lyness patent does not remedy that the Lyness patent, taken alone or in combination with the disclosure of the Rothmuller publication and the Becker patent, fails to teach or suggest a centerline position of the scrolling time bar and fails to teach or suggest a relative deviated position of a media handle from a centerline position of a scrolling time bar.

Accordingly, Applicant submits that the Lyness patent, taken alone or in combination with the disclosure of the Rothmuller publication and the Becker patent, fails to teach or suggest “a centerline position” of the scrolling time bar and a “relative deviated position of the media handle from a centerline position of the scrolling time bar.” Applicant submits that the Office’s interpretation of the claim term “a centerline position” of the scrolling time bar and application of the cited references in the pending rejections of Claims 1, 3-5, 7-25, 27, and 29-47 is a reversible error.

C. The Combination of the Rothmuller publication, Lyness patent, and Becker patent Does Not Teach or Suggest Decreasing the Speed of Browsing in Relation to the Distance of an *Approaching* Media File

Dependent Claim 7 recites “decreasing the speed of the browsing in relation to the distance of the *approaching* media file.”

The Final Office Action rejects dependent Claim 7 under 35 U.S.C. § 103(a) based upon the combination of the Rothmuller publication in view of the Lyness patent and the Becker patent. *See* Final Office Action, p. 6. The Final Office Action points to disclosure of the Becker patent regarding dynamically varying scroll speed in response to the content of *the viewed portion* of the *viewable* object. *Id.* The Advisory Action states “the term ‘approaching’ does not necessarily constitute an object is not yet within view.” *See* Advisory Action, p. 4.

Applicant submits that the asserted statement of the Advisory Action is not a reasonable interpretation of the claim limitation “decreasing the speed of the browsing in relation to the distance of the approaching media file” in the present application when interpreting the claim limitation as one of ordinary skill in the art would interpret the claim limitation “consistent with the specification.” *See, e.g., In re Am. Acad. of Sci. Tech. Ctr., supra; Phillips v. AWH Corp., supra.* Applicant notes that the term “approaching” is used consistently in the specification with reference and in relation to approaching the visible media view display area, such that a media file approaching the media view is not yet visible within the media view display area. For example, the specification describes that “the system observes metadata of the media files that are *approaching the visible display area already before they enter the visible display area* (in order to create smooth slow down of the scrolling)” (para. 0072, emphasis added). The specification refers to the corresponding distance as “the distance remaining to be scrolled to bring the media file *into the viewable area of the display*” (para. 0073, emphasis added). And the specification describes “when the desired media file has *bypassed a visible area of the viewable display*, at step 700, the system then determines the distance to the bypassed media file and, at step 710, accelerates the browsing speed by a predetermined rate” (para. 0074, emphasis added). Thus, the specification describes three conditions for a media file: before a media file

enters the visible area of the viewable display, when a media file is visible (partially or wholly) within the visible area of the viewable display, and after a media file has bypassed the visible area of the viewable display. In all instances of reference to a media file before the media file enters the visible area of the viewable display, the specification refers to the media file as an “*approaching*” media file. See, e.g., para. 0072, 0073, 0074. As such, Applicant submits that one of ordinary skill in the art would find that the broadest reasonable interpretation of the claim limitation “decreasing the speed of the browsing in relation to the distance of the approaching media file” refers to a condition of a media file before the media file enters the visible portion of the viewable display, i.e., when the media file is not yet within view. This is contrary to the interpretation of the claim limitation applied in the Final Office Action and more fully expressed in the statements of the Advisory Action to include an object already in the media view. Applicant submits that it is not reasonable to interpret an *approaching* media file of the present application as a media file that is already within the media view. And Applicant submits that it is not reasonable to interpret a media file of the present application as approaching if it is already in view.

By comparison to the claim limitation, the Becker patent only discloses the concept and ability to dynamically vary scroll speed in response to the content of the viewed portion of the viewable object (i.e., within the view of the display). Applicant notes that this distinction highlights an improvement of the present invention over a combination of the Rothmuller publication, the Lyness patent, and the Becker patent, whereby the present invention adjusts the speed of browsing *before* a media file is in the viewable portion of the display, so that the speed of browsing is already adjusted when the media file enters the viewable portion of the display. By comparison, the Becker patent does not disclose or contemplate varying the scroll speed of a viewable object except based upon the content of the viewed portion of the viewable object, i.e., until an object is already viewable. This distinction also highlights a conceptual difference between the present invention and the Becker patent, whereby the present invention presumes that the user may only be interested in viewing those media files that match a chosen browse parameter, and not those media files therebetween, and whereby the Becker patent presumes that the user may be interested in viewing the entire viewable object and focusing upon certain

content for a longer period of time. Nothing in the Becker patent, either alone or in combination with the Rothmuller publication and/or the Lyness patent, teaches or suggests adjusting the speed of browsing *before* a media file is in the viewable portion of the display.

Accordingly, Applicant submits that Rothmuller publication taken in combination with the Lyness patent and the Becker patent fails to teach or suggest “decreasing the speed of the browsing in relation to the distance of the *approaching* media file.” Applicant submits that the Office’s interpretation of this claim limitation and application of the cited references in the pending rejections of Claim 7 is a reversible error.

D. The Combination of the Rothmuller publication, Lyness patent, and Becker patent Does Not Teach or Suggest Increasing the Speed of Browsing When a Media File Having the Chosen Browse Parameter Bypasses the Centerline Position of the Media View

Dependent Claims 8, 32, and 37 recite limitations of “increasing the speed of the browsing when a media file having the chosen browse parameter bypasses the centerline position” of the media view.

I. Rejections of Final Office Action

The Final Office Action rejects dependent Claims 8, 32, and 37 under 35 U.S.C. § 103(a) based upon the combination of the Rothmuller publication in view of the Lyness patent and the Becker patent. *See* Final Office Action, pp. 6-7. The Final Office Action points to disclosure of the Becker patent regarding dynamically varying scroll speed in response to the content of the viewed portion of the viewable object. *Id.* at p. 7.

Applicant submits that the Final Office Action fails to present *prima facie* obviousness rejections based upon the Rothmuller publication, Lyness patent, and Becker patent. The rejections fail to assert that the combination of the Rothmuller publication in view of the Lyness patent and the Becker patent teach or suggest the limitation “when a media file having the chosen browse parameter *bypasses the centerline position*” of the media view. The rejections of the Final Office Action point only to disclosure in the Becker patent of “dynamically varying scroll

speed in response to the content of the viewed portion of the viewable object.” Nothing in this disclosure, or that of the combination of the Rothmuller publication in view of the Lyness patent and the Becker patent, relates to increasing browse speed *when a media file having a chosen browse parameter bypasses the centerline position of a media view*. The cited prior art combination only teaches varying scroll speed in relation to “the content of the viewed portion of the viewable object” without any reference or suggestion to a centerline position of a viewable area or when a media file bypasses that centerline position.

II. First Remark of Advisory Action

The Advisory Action states on page 5, “nowhere in the claim defines what part of the media file that bypasses the centerline position of a view causes the increasing in speed of browsing.”

Applicant submits that the express language of the claim limitations unambiguously recites that “a media file” bypasses the centerline position a media view. Applicant submits that there is no suggestion or ambiguity that less than the entire media file would satisfy the claim limitation. Applicant submits that there is no suggestion or ambiguity that increasing the speed would relate to a particular part of the media file. And, therefore, Applicant submits that there is no reason that the claim should define a part of the media file that bypasses the centerline position of a view. Instead, the claim limitations expressly recite that “a media file” (*i.e.*, the entire media file) bypasses the centerline position. Further, Applicant submits that this remark is irrelevant as between the recited claim limitation and the asserted prior art combination. Nothing in the prior art combination teaches or suggests increasing browse speed in relation to a centerline position of a viewing area, irrespective of whether any portion, some particular portion, or all portions of a media file have bypassed a centerline position of a media viewing area.

III. Second Remark of Advisory Action

The Advisory Action also states on page 5, with respect to the Becker patent:

The centerline position of a view that causes the increase in speed of browsing would be the view of the graphical representation that represents the most intricate parts of it and thus, would have a scrolling speed of the slowest possible. Any movement from that centerline position would cause at least some decrease in

intricacy and thus, the scrolling speed would be increased. Thus, scrolling speed would be based around this centerline position of the view.

Applicant refutes this assertion as either, or both, (i) speculation or conjecture based upon impermissible hindsight without any support in the prior art, or (ii) an incorrect interpretation of the disclosure of the Becker patent.

The disclosure of the Becker patent merely refers to a graphical representation “being displayed” (i.e., within the view of the display). The related disclosure of the Becker patent states:

Block 84 illustrates the designation of scroll speed within a viewable object associated with each portion of the object. **Scrolling speed, as described above, can vary with the content of the information being scrolled; for example, certain content may be more important, more difficult to understand, or of greater interest to a user. If the content is a graphical representation, for example, of an engine part, the scrolling may proceed slower when more intricate sections are being displayed than when simple sections are displayed.** If the content corresponds to audio, the scrolling may be slower over more important audio sections than less important audio sections or differentiate content such as music, speech, commercial advertisements. If the content is text, the scrolling may be slower over difficult text passages or important text passages that are relevant to a user's needs. The content and nature of the text may be reflected in the scroll rate. For example, if a user is interested in automobiles, information regarding automobiles may scroll slower than information corresponding to bikes. Advertisers may actually pay users, web-browser manufacturers, and other groups to provide a slower scroll when an advertisement is being presented. If a user has in the past studied (e.g., viewed) a certain section of the text for a long period of time, the system may scroll slower when this region of information is viewed. The process then passes to block 86 and returns.

(Emphasis added.) Nothing in the Becker patent discloses that the most intricate part of a graphical representation would correspond to a centerline position of a view. Moreover, nothing in the Becker patent discloses that the intricacy of a graphical representation relates in any way to a viewable area or even that the intricacy of a graphical representation changes in any way. For example, nothing in the Becker patent discloses that movement from a centerline position of a view “would cause at least some decrease in intricacy,” as alleged in the second remark of the Advisory Action. Instead, the Becker patent merely teaches that different graphical representations having different intricacies may be displayed and that “when more intricate sections are being displayed” the scrolling may proceed slower. And this suggests only that when less intricate sections are being displayed, the scrolling may proceed faster. For example,

the Becker patent suggests that the graphical representation of a cross-section of an oil filter or an exploded diagram of a brake assembly may proceed slower than the graphical representation of an oil tank drain plug gasket, because the graphical representations of a cross-section of an oil filter and an exploded diagram of a brake assembly are more intricate than an oil tank drain plug gasket. But this disclosure of the Becker patent and the associated teachings and suggestions are entirely without any reference or relation to the position of the graphical representations within the view of the display, only whether or not a graphical representation is or is not within the view of the display. The combination of the Rothmuller publication, the Lyness patent, and the Becker patent fails to teach or suggest the concept of an object bypassing a centerline position of a view and also fails to teach or suggest increasing the speed of browsing in relation to an object bypassing the centerline of a media view. The disclosure of the Becker patent contemplates only whether or not a graphical representation is visible and whether or not it is more or less intricate than other graphical representations. By comparison, the claimed invention contemplates the relationship between a media file moving through a media view and expressly recites "increasing the speed of the browsing when a media file having the chosen browse parameter bypasses the centerline position" of the media view.

Accordingly, Applicant submits that Rothmuller publication taken in combination with the Lyness patent and the Becker patent fails to teach or suggest "increasing the speed of the browsing when a media file having the chosen browse parameter bypasses the centerline position" of a media view. Applicant submits that the Office's interpretation of this claim limitation and application of the cited references in the pending rejections of Claims 8, 32, and 37 is a reversible error.

For at least each of the reasons stated above, Applicant respectfully submits that, on the basis of the current rejections, all of the § 103(a) rejections of Claims 1, 3-5, 7-15, 17-25, 27, 29, 30, 31, 32-34, 35, 36, 37-39, 40, 41, 42-45, and 47 and Claims 16 and 46 should be reversed and that all of Claims 1, 3-5, 7-25, 27, and 29-47 are patentable and in condition for allowance. Reconsideration is respectfully requested.

8. ***Claims Appendix***

An appendix containing a copy of the pending claims involved in this Appeal is attached hereto.

9. ***Evidence Appendix***

An appendix containing a copy of any evidence submitted for this appeal is attached hereto.

10. ***Related Proceedings Appendix***

An appendix containing a copy of any related proceedings is attached hereto.

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Filed: November 17, 2003

CONCLUSION

In light of the remarks presented herein, Appellant submits that all of the pending claims are patentable over the cited prior art and respectfully requests that the rejections be reversed.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper, such as fees for a request for an extension of time. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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8. *Claims Appendix*

The claims currently on appeal are as follows:

1. (previously presented) A computer program product comprising a computer-useable medium having computer-readable instructions embodied thereon for providing access to digital media files on a digital device, said computer-readable instructions comprising:

first instructions adapted to generate a media view that provides access to the digital media files; and

second instructions adapted to generate a timeline view comprising a scrolling time bar and a media handle that provides the ability to browse media files in the media view generated by the computer program product by using the media handle, the second instructions further adapted to provide the ability to browse for media files matching a chosen browse parameter and according to a manually-controlled speed of the browsing determined by the relative deviated position of the media handle from a centerline position of the scrolling time bar for the media handle, and the second instructions further adapted to automatically decrease the manually-controlled speed of the browsing by computer program instruction control when a media file having the chosen browse parameter approaches or is in the media view.

2. (canceled)

3. (previously presented) The computer program product of Claim 1, wherein the browse parameter is chosen from any combination of items of metadata associated with the media files.

4. (previously presented) The computer program product of Claim 1, wherein the browse parameter is chosen from one or more items of metadata associated with periods of time.

5. (previously presented) The computer program product of Claim 3, wherein the item of metadata is chosen from the group consisting of time, media file type, media file size, media file bookmark, media file annotation, media file representation, media file title, media file name, topic, content, location, situation, preferences, contact information, names of people,

names of electronic devices, technical information of electronic devices, items described in the media file and tables of content information.

6. (canceled)

7. (previously presented) The computer program product of Claim 1, wherein the second instructions further include instructions for decreasing the speed of the browsing in relation to the distance of the approaching media file and extent of a deviation of the media handle from the centerline position.

8. (previously presented) The computer program product of Claim 1, wherein the second instructions further include instructions for increasing the speed of the browsing when a media file having the chosen browse parameter bypasses the centerline position of a view generated by the computer program product.

9. (previously presented) The computer program product of Claim 8, wherein the second instructions further include instructions for increasing the speed of the browsing in relation to the distance of the bypassing media file and extent of a deviation of the media handle from the centerline position.

10. (previously presented) The computer program product of Claim 1, wherein the first instructions associate the digital media files with a period of time based upon information associated with the digital media file.

11. (previously presented) The computer program product of Claim 1, further comprising third instructions for generating a calendar view that represents time in calendar format and associates events with respective periods of time.

12. (previously presented) The computer program product of Claim 11, wherein the first instructions associate digital media files with a past period of time and wherein the third instructions associate events with respective future periods of time.

13. (previously presented) The computer program product of Claim 1, wherein the second instructions further include instructions for browsing the media items by stepping directly to the period of time including the media file having the chosen browse parameter.

14. (previously presented) The computer program product of Claim 1, wherein the second instructions further include instructions to browse a media view, a calendar view and a time bar.

15. (previously presented) The computer program product of Claim 1, wherein the second instructions further provide for a browsing step function that is proportional to a movement of the media handle along a time bar.

16. (previously presented) The computer program product of Claim 1, wherein the second instructions further provide for generating a center mark on the media handle that indicates the period of time that is browsed to the centerline of the view of the computer program product.

17. (previously presented) The computer program product of Claim 1, wherein the second instructions further provide for a speed of browsing that is proportional to the distance that the media handle is deviated from the centerline position on a view of the computer program product.

18. (previously presented) The computer program product of Claim 17, wherein the second instructions further provide for a speed of browsing that accelerates when the media handle is deviated a certain distance from the centerline position on the view of the computer program product.

19. (previously presented) The computer program product of Claim 17, wherein the second instructions further include instructions for increasing the speed of browsing as the distance from the centerline position is increased.

20. (previously presented) The computer program product of Claim 17, wherein the second instructions further include instructions for decreasing the speed of browsing as the distance from the centerline position is decreased.

21. (previously presented) The computer program product of Claim 18, wherein the second instructions further include instructions for increasing the speed of the browsing when the media file having the chosen browse parameter bypasses the viewable area of the display.

22. (previously presented) An apparatus comprising:
a processing unit that executes computer-readable program instructions adapted to access media files, the computer-readable program instructions comprising:
first instructions adapted to generate a media view that provides access to digital media files, and
second instructions adapted to generate a timeline view comprising a scrolling time bar and a media handle adapted to browse media files in the media view generated by the processing unit by using the media handle, the second instructions further adapted to provide the ability to browse for media files matching a chosen browse parameter and according to a manually-controlled speed of the browsing determined by the relative deviated position of the media handle from a centerline position of the scrolling time bar for the media handle, and the second instructions further adapted to automatically decrease the manually-controlled speed of the browsing by computer program instruction control when the processing unit determines that a media file having the chosen browse parameter is approaching or currently in the media view;
an input device in communication with the processing unit and adapted to control the deviation of the media handle, thereby manually controlling the speed of the browsing and defining the manually-controlled speed of the browsing; and
a display in communication with the processing unit that presents a combined view of the media view and the media handle.

23. (previously presented) The apparatus of Claim 22, wherein the computer-readable program instructions further comprising a third instructions adapted to generate a calendar view that represents time in calendar format, associates events with respective periods of time and is presented by the display in combination with the media view and media handle.

24. (previously presented) A method for browsing media files in a media application, the method comprising:
providing a media view and a timeline view comprising a scrolling time bar and a media handle on a display associated with a device implementing the media application, wherein the

media handle is adapted to provide manually-controlled browsing of media files in the media view;

defining a browse parameter for desired media files;

deviating the media handle a distance from a centerline position of the scrolling time bar for the media handle;

browsing media files at a speed corresponding to the distance that the media handle is deviated from the centerline position, thereby defining a manually-controlled browse speed; and

automatically decreasing the manually-controlled browse speed of the media handle when a desired media file approaches or is within the media view.

25. (previously presented) The method of Claim 24, further comprising manually adjusting the deviation distance of the media handle from the centerline position and adjusting the manually controlled browse speed of the media handle according to the adjusted deviation distance.

26. (canceled)

27. (previously presented) The method of Claim 24, wherein defining a browse parameter further comprises defining a browse parameter chosen from the group consisting of time, media file type, media file size, metadata information, media file bookmark, media file representation, media file annotation, media file title, media file name, topic, content, location, situation, preference, contact information, name of a person, name of an electronic device, technical information of an electronic device, item described in the media file, and table of content information.

28. (canceled)

29. (previously presented) The method of Claim 24, further comprising automatically increasing the manually-controlled browse speed of the media handle when desired media files are not within the media view.

30. (previously presented) The computer program product of Claim 1, wherein the second instructions further provide for stopping the browsing when the media handle is released.

31. (previously presented) The computer program product of Claim 30, wherein the second instructions further provide for automatically returning the media handle to a rest position corresponding to the centerline position when the media handle is released.

32. (previously presented) The apparatus of Claim 22, wherein the second instructions further include instructions for automatically increasing the speed of the browsing when a media file having the chosen browse parameter bypasses the centerline position of the media view.

33. (previously presented) The apparatus of Claim 22, wherein the first instructions associate the digital media files with a period of time based upon information associated with the digital media files.

34. (previously presented) The apparatus of Claim 22, wherein the second instructions further provide for a speed of browsing that is proportional to the distance that the media handle is deviated from the centerline position on the media view.

35. (previously presented) The apparatus of Claim 22, wherein the second instructions further provide for stopping the browsing when the media handle is released.

36. (previously presented) The apparatus of Claim 35, wherein the second instructions further provide for automatically returning the media handle to a rest position corresponding to the centerline position when the media handle is released.

37. (previously presented) The method of Claim 24, further comprising automatically increasing the speed of the browsing when a media file having the chosen browse parameter bypasses the centerline position of the media view.

38. (previously presented) The method of Claim 24, further comprising associating the digital media files with a period of time based upon information associated with the digital media files.

39. (previously presented) The method of Claim 24, wherein the manually-controlled browse speed is proportional to the distance that the media handle is deviated from the centerline position on the media view.

40. (previously presented) The method of Claim 24, further comprising stopping the browsing when the media handle is released.

41. (previously presented) The method of Claim 40, further comprising automatically returning the media handle to a rest position corresponding to the centerline position when the media handle is released.

42. (previously presented) An apparatus comprising:
a processing unit configured to access media files, wherein the processing unit is further configured to generate a media view that provides access to digital media files and associates digital media files with a period of time, wherein the processing unit is further configured to generate a scrolling view media handle that provides the ability to browse media files in the media view over several periods of time by control of the media handle, wherein the processing unit is further configured to provide the ability to browse for media files matching a chosen browse parameter and according to a manually-controlled speed of the browsing determined by a relative deflected position of the media handle from a centerline position for the media handle, and wherein the processing unit is further configured to automatically decrease the manually-controlled speed of the browsing by computer program instruction control when the application determines that a media file having the chosen browse parameter approaches or is in the media view.

43. (previously presented) The apparatus of Claim 42, wherein the processing unit is further configured to receive control data from an input device to control the deflection of the media handle, thereby manually controlling the speed of the browsing and defining the manually-controlled speed of the browsing, and wherein the processing unit is further configured to adapt the speed of the browsing and define the manually-controlled speed of the browsing in correspondence with the control data received from the input device.

44. (previously presented) The apparatus of Claim 42, wherein the processing unit is further configured to automatically increase the speed of the browsing when a media file having the chosen browse parameter bypasses the centerline position of the media view.

45. (previously presented) The apparatus of Claim 42, wherein the processing unit is further configured to continually increase the speed of the browsing as the relative distance of the media file having the chosen browse parameter to the period of time displayed in the media view increases based upon the period of time associated with the media file and the periods of time by which the browsing occurs.

46. (previously presented) The apparatus of Claim 42, wherein the processing unit is further configured to generate a center mark on the media handle that indicates the period of time that is browsed to a the centerline of the view of the computer program product.

47. (previously presented) The apparatus of Claim 42, wherein the processing unit is further configured to stop the browsing when the media handle is released and automatically return the media handle to a rest position corresponding to the centerline position when the media handle is released.

9. ***Evidence Appendix***

None.

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10. ***Related Proceedings Appendix***

None.